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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,607	06/29/2001	Janne Petri Rinne	442-010429-US(PAR)	7208
7590 04/07/2005			EXAMINER	
Perman & Green 425 Post Road Fairfield, CT 06430-6232			JEAN GILLES, JUDE	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 04/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/896,607

Applicant(s)

RINNE ET AL.

Examiner

Jude J Jean-Gilles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date: 10/15/01, 02/77/02, 09/29/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Action is in regards to the Reply received on 09 December, 2004.

#### ***Response to Amendment***

1. This action is responsive to the application filed on December 9<sup>th</sup>, 2004. Claims 1, 4, 5, and 7 were amended. There are no new claims in this response. Claims 1-8 are pending. Claims 1-8 represent a method and apparatus for a "QUALITY OF SERVICE DEFINITION FOR DATA STREAMS".

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 4, 5 and 7 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new ground of rejection as explained here below, necessitated by Applicant substantial amendment (*i.e., a method wherein a certain Quality of Service (QoS) to a data stream of an application executing in a terminal device communicating data over a sockets connection*) to the claims which significantly affected the scope thereof.

The dependent claims stand rejected as articulated in the First Office Action and all objections and/or rejections not addressed in Applicant's response are herein reiterated.

***Information Disclosure Statement***

3. The references listed on the Information Disclosure Statements submitted on 10/19/2001, 03/06/2002, and 10/02/2003 have been considered by the examiner (see attached PTO-1449A).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-8** are rejected under 35 U.S.C. 102(e) as being anticipated by Jackowski et al (Jackowski), Patent No. 6,141,686 B1.

Regarding **claim 1**, Jackowski discloses a method for applying a certain Quality of Service (QoS) to a data stream of an application (*fig. 11, QoS Priority Query; column 9, lines 44-49*) executing in a terminal device communicating data over a sockets connection (*fig. 11, items 10, 32-34, and 51*), wherein the method comprises:

providing a uniquely identifiable identifier (UID, Stream Type) to at least one of the application and the data stream from or to the application (*column 10, lines 55-62*);

determining an association between said identifier and a particular QOS policy in a database stored in said terminal device (*column 10, lines 55-67; column 11, lines 1-37; column 4, lines 11-25*);

determining in said terminal device QOS parameters contained in the QOS policy (*fig. 12, items 10-14; column 15, lines 14-63*); and

communicating from said terminal device to the network the QOS parameters to be applied to said at least one of the application and the data stream from or to the application (*column 10, lines 10-39; column 15, lines 14-63*).

Regarding **claim 4**, Jackowski discloses a device (*fig. 11, items 18, 10; the device here is represented by the priority server 18 or client server 10 sitting on its own device whereas the invention discloses both client and server seating on the same device. It is inherent in the computer art to have both server and client software residing on the same device*) comprising;

an application program for executing a particular application (*column 10, lines 5-9; fig. 4, items 52 and 32; Note that the plugin here is a small program used to activate an application*),

means for communicating data over a sockets connection, wherein the device further comprises (*column 9, lines 46-49*);

means for providing a uniquely identifiable identifier (UID, Stream Type) at least one the application and the data from or the application (*column 10, lines 58-62*);

means for determining an association between said identifier and a particular QoS policy in a database stored in said device (*column 10, lines 55-67; column 11, lines 1-37; column 4, lines 11-25*);

means for determining in said device the QoS parameters contained in the QoS policy (*fig. 12, items 10-14; column 15, lines 14-63*); and

means for communicating from said device to the network the QoS parameters to be applied to said at least one of the application and the data stream from or to the application (*column 10, lines 10-39; column 15, lines 14-63*).

Regarding **claim 5**, Jackowski discloses a device (*fig. 11, items 18, 10; the device here is represented by the priority server 18 or client server 10 sitting on its own device whereas the invention discloses both client and server seating on the same device. It is inherent in the computer art to have both server and client software residing on the same device*) comprising:

an application program for executing a particular application (*column 10, lines 5-9; fig. 4, items 52 and 32; Note that the plugin here is a small program used to activate an application*),

means for communicating data over a sockets connection, wherein the device further comprises (*column 9, lines 46-49*);

means for associating a centrally defined identifier (UID, Stream Type ) to , at least one of the application and the data from or to the application (*column 10, lines 55-67; column 11, lines 1-37; column 4, lines 11-25*);

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means for determining an association between said identifier and a particular QoS policy in a database stored in said device (*column 10, lines 55-67; column 11, lines 1-37; column 4, lines 11-25*);

means for determining in said device the QoS parameters contained in the QoS policy (*fig. 12, items 10-14; column 15, lines 14-63*); and

means for communicating from said device to the network the QoS parameters to be applied to said at least one of the application and the data stream from or to the application (*column 10, lines 10-39; column 15, lines 14-63*).

Regarding **claim 7**, Jackowski discloses a computer program product for an electronic device having an application to communicate data over a sockets connection, wherein in that the computer program product comprises;

computer program means for providing a uniquely identifiable identifier (UID, Stream Type) to at least one of the application and the data from or to the application (*column 10, lines 55-62*);

computer program means for determining an association between said identifier and a particular QoS policy in a database stored in said electronic device (*column 10, lines 55-67; column 11, lines 1-37; column 4, lines 11-25*);

computer program means for determining said electronic device the QoS parameters contained in the QoS policy (*fig. 12, items 10-14; column 15, lines 14-63*) and

computer program means for communicating from said electronic device to the network the QoS parameters to be applied to said at least one of the application and

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the data stream from or to the application (*column 10, lines 10-39; column 15, lines 14-63*).

Regarding **claims 2-3, 6, and 8** stand rejected as articulated in the First Office Action

### ***Response to Arguments***

6. Applicant's Request for Reconsideration filed on December 9<sup>th</sup>, 2004 has been carefully considered but is not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main points of contention.

- A. The Jackowski patent fails to disclose the features of determining an association between said identifier and a particular QoS policy in a database stored in said terminal device;
- B. The Jackowski patent fails to disclose the features of determining in said terminal the QoS parameters contained in the QoS policy;
- C. The Jackowski patent fails to disclose the features of communicating from said terminal device to the network the QoS Parameters;
- D. Applicant contends that Claims 1, 6, and 7 have been amended to further define the invention in a non-limiting manner, and that claims 3, 6, and 8 are allowable in view of their dependencies.

7. As to "Point A", it is the position of the Examiner that Jackowski in detail teaches the limitations of the claim. Applicant's arguments are deemed moot in view of the



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following new grounds of rejection as explained above [see *Jackowski*, column 10, lines 55-67; column 11, lines 1-37; column 4, lines 11-25];

As to "Point B", it is also the Examiner's position that Jackowski in detail teaches the limitations of the claim. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained above [see *Jackowski*, fig. 12, items 10-14; column 15, lines 14-63];

As to "Point C", it is also the Examiner's position that Jackowski in detail teaches the limitations of the claim. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained above [see *Jackowski*, column 10, lines 10-39; column 15, lines 14-63];

As to "Point C", it is also the Examiner's position that Jackowski in detail teaches the limitations of **claims 1-8**. Applicant's arguments are deemed moot in view of the above new grounds of rejection.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles

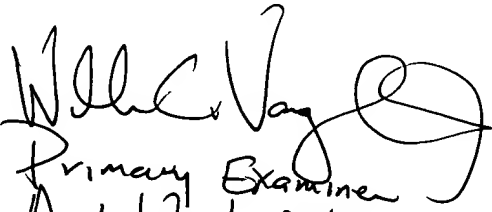
Patent Examiner

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JJG

March 27, 2005

JG

  
Primary Examiner  
Art Unit 2143  
William C. Vaughan